

The distinction between Groups I and III, on the basis that the combination and sub-combination have separate utility since “a different subfloor or anchor sheet can be employed other than recited”, is not well founded. The claims in Group I (directed to a subfloor combination) contain all the essential characteristics of the claims in Group III (drawn to anchor sheets). As such, it cannot be reasonably asserted that “different” anchor sheets other than those recited in the claims of Groups III may be employed in the combination. For the same reason, the distinction between Groups I and IV, on the basis that the combination and sub-combination have separate utility since “the subfloor kit [of Group I] could employ an alternative attachment device and the attachment device [of Group IV] could be employed in a ceiling or wall structure”, is likewise not well founded. Furthermore, the utility of an attachment device of Group IV is explicitly stated in claim 65 as being for use “in a subfloor”. These same comments also apply with respect to any proposed distinction between Groups II and III or between Groups II and IV, since claims of Group II recite a process utilizing a subfloor combination recited in the claims of Group I.

The distinction between Groups I and II, on the basis that “the subfloor kit [of Group I] could be used in an entirely different construction process other than recited [in Group II], such as for a wall or ceiling”, is also not well founded. For example, independent claim 41 of Group II explicitly states in the preamble that it is directed to “[a] method of installing an anchor sheet subfloor over a floor” [emphasis added]. Since each independent claim in Group II is explicitly limited to an installation over a floor, it is difficult to see how it may be suggested that a method recited in the claims of Group II may be used in a construction process for a wall or ceiling.

Furthermore, it cannot be reasonably asserted that an anchor sheet of Group III and an attachment device of Group IV could have separate utility. The utility of an attachment device of Group IV is explicitly stated in claim 65 as being for use “with a corresponding anchor sheet”. As claimed, the sub-combinations of the claims of Group III and IV are used together and therefore do not have separate utility.

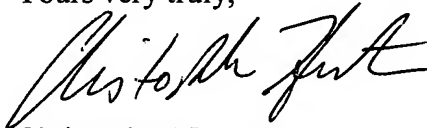
For at least the above reasons, Applicant respectfully submits that there is no basis for restriction in the present case and requests reconsideration of the restriction requirement by the Examiner.

Conclusion

In view of the foregoing comments, Applicant respectfully requests the Examiner to withdraw the restriction requirement and commence examination of claims 29-76 on the merits.

Should any Patent Office official want to telephone, the call should be made to Brian W. Gray (Registration No. 30,017) at (416) 863-3256 or Christopher N. Hunter (Registration No. 52,528) at (416) 863-2518.

Yours very truly,

A handwritten signature in black ink, appearing to read "Christopher N. Hunter". The signature is fluid and cursive, with the first name "Christopher" being more prominent than the last name "Hunter".

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